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13  
14 **UNITED STATES DISTRICT COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**  
16 **OAKLAND DIVISION**

17 GRANT HOUSE, *et al.*,  
18 Plaintiffs,  
19 v.  
20 NATIONAL COLLEGIATE ATHLETIC  
ASSOCIATION, *et al.*,  
21 Defendants.

CASE NO.: 4:20-CV-03919 CW

**MOTION BY THE STATE OF SOUTH  
DAKOTA TO COMPEL 28 U.S.C. §  
1715 NOTICE**

Date: TBD  
Time: TBD  
Dept: TBD  
Judge: Hon. Claudia Wilken

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**MOTION TO COMPEL 28 U.S.C. 1715 NOTICE**

The State of South Dakota, for and on behalf of the University of South Dakota and South Dakota State University, by and through its Attorney General, files this motion to compel defendants to provide notice to South Dakota, and all other states to whom notice is due (Affected States), as required by 28 U.S.C. § 1715(b).

South Dakota and other Affected States host institutions which participate in Division I athletics in the National Collegiate Athletic Association (NCAA). Though the Settlement has serious financial implications for South Dakota and other Affected States and their institutions of higher education, proper notice of the Settlement has not been served by the NCAA or other defendants (hereinafter collectively referred to as NCAA) as required by 28 U.S.C. § 1715.

28 U.S.C. § 1715(b)(7) notice obliges the NCAA to inform state Attorneys General of “the names of the class members who reside in each state and the estimated proportionate share of the claims of such members to the entire settlement.” If it is not feasible to provide this information, the notice must provide “a reasonable estimate of the number of class members residing in each state and the estimated proportionate share of the claims of such members to the entire settlement.” The NCAA’s notice facially fails to comply with either of these requirements.

Instead, the NCAA’s “notice” states that it is in the process of gathering the required information and instructs state Attorneys General to contact Verita Global, LLC to obtain this information at a later date. Per 28 U.S.C. § 1715(a)(2), it is incumbent on the NCAA to provide the information required by 28 U.S.C. § 1715(b)(7)(A) or (B) to appropriate state officials to effect proper notice. Referring state officials to some third-

1 party who the NCAA says will be able to provide this information at some unspecified  
2 date in the future is not an option under 28 U.S.C. § 1715(b)(7). Without the  
3 information required by 28 U.S.C. § 1715(b)(7)(A) or (B), the NCAA's "notice" is  
4 deficient.  
5

6 Notice to affected state Attorneys General is necessary "to ensure that [they are]  
7 ...in a position to react if the settlement appears unfair to some or all class members."  
8 S.Rep. 109-14 at 32 (2005), reprinted in 2005 U.S.C.C.A.N. 3, 32. "Notice" which does  
9 not provide South Dakota or other Affected States with the information necessary for  
10 their Attorneys General to assess if the settlement is fair to class members is no notice at  
11 all. Not only have South Dakota and other Affected States' Attorneys General not  
12 received proper notice of the settlement, their educational institutions were not informed  
13 of the existence or terms of the Settlement before the initial request for approval was  
14 filed with this Court on July 26, 2024. DOCKET 450. In fact, the NCAA actively  
15 excluded South Dakota and other non-Power 4 Affected States' educational institutions  
16 from any role in the Settlement negotiations.  
17

18 Proper notice to South Dakota and other Affected States is a prerequisite to  
19 evaluating the impact of the settlement on state class members. Per 28 U.S.C. §  
20 1715(d), the settlement may not be approved earlier than 90 days from the date that  
21 South Dakota and all Affected States are served with the required notice. That 90 days  
22 has not started to run because the NCAA has not complied with the notice requirement.  
23

24 On October 17, 2024, The State of South Dakota notified the NCAA's counsel  
25 that its notice was deficient. See NCAA LETTER, copy attached as Exhibit 1. South  
26 Dakota asked the NCAA to inform it within ten days of the steps it intended to take to  
27

1 cure the defective notice. The NCAA has not responded, which South Dakota interprets  
2 as an intent to avoid its notice responsibilities under 28 U.S.C. § 1715.  
3

### 4 5 **CONCLUSION**

6 28 U.S.C. § 1715 notice is a requisite first step in the approval of the subject  
7 Settlement. The NCAA has failed to provide the required notice. Approval of this  
8 settlement without due notice prevents South Dakota and other Affected States from  
9 assessing the fairness of the settlement to state class members. Per 28 U.S.C. § 1715, it  
10 is not up to simply the named parties of a class action to decide what is fair. State  
11 Attorneys General have a role to ensure that the interests of certain class members do  
12 not overbear the interests of other class members. Other objectors have raised concerns  
13 regarding the fairness of the settlement to certain class members.<sup>1</sup> State Attorneys  
14 General cannot begin to fulfill their role of ensuring fairness to *all* class members  
15 without the notice required by 28 U.S.C. § 1715.  
16

17 The Affected States accordingly request that the NCAA be ordered to serve  
18 proper 28 U.S.C. § 1715 notice on the Attorneys General for the State of South Dakota  
19 as well as all other states for whom such notice is required.  
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27 <sup>1</sup> Hausfeld Objection, Docket 539 at 13-14; MoloLamken Objection, Docket 475 at 1, 7, 11.  
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1 Dated: November 13, 2024

Respectfully submitted,

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